

1 **UNITED STATES DISTRICT COURT,**
2 **SOUTHERN DISTRICT OF IOWA,**
 DES MOINES DIVISION

3 TRAVIS McELVAIN,) **Case No.: 11-cv-146**
4 Plaintiff,)
5 v.)
6 DIVERSIFIED COLLECTION SERVICES,) **COMPLAINT AND DEMAND FOR**
7 INC.,)
8 Defendant.)
9

10 **VERIFIED COMPLAINT**

11 TRAVIS MCELVAIN (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the
12 following against DIVERSIFIED COLLECTION SERVICES, INC. (Defendant):

13 **INTRODUCTION**

- 14 1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15*
15 *U.S.C. 1692 et seq.* (FDCPA).
16 2. Defendant acted through its agents, employees, officers, members, directors, heirs,
17 successors, assigns, principals, trustees, sureties, subrogees, representatives, insurers,
18 and attorneys.

19 **JURISDICTION AND VENUE**

- 20 3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such
21 actions may be brought and heard before "any appropriate United States district court
22 without regard to the amount in controversy."
23 4. Defendant conducts business in the state of Iowa and, therefore, personal jurisdiction is
24 established.
25 5. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.

PARTIES

6. Plaintiff is a natural person residing in Des Moines, Polk County, Iowa.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national company with its headquarters in Livermore, Alameda County, California.

FACTUAL ALLEGATIONS

10. Defendant placed collection calls to Plaintiff seeking and demanding payment for an alleged debt for a student loan.
11. Defendant contacted Plaintiff from telephone number 541-955-7800.
12. Defendant threatened to contact Plaintiff's employer and garnish Plaintiff's wages. To date, no wages have been garnished.
13. Plaintiff is current on his payment plan for the alleged debt with the Defendant.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692e of the FDCPA by false, deceptive, or misleading representation or means in connection with the debt collection.
 - b. Defendant violated §1692e(4) of the FDCPA by stating that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment.
 - c. Defendant violated §1692e(10) of the FDCPA by any false representation or deceptive means to collect a debt or obtain information about a consumer.
 - d. Defendant violated §1692f of the FDCPA by engaging in unfair or

unconscionable means to collect or attempt to collect the alleged debt.

e. Defendant violated §1692f(1) of the FDCPA by attempting to collect any amount not authorized by the agreement creating the debt or permitted by law.

WHEREFORE, Plaintiff, TRAVIS McELVAIN , respectfully requests judgment be entered against Defendant, DIVERSIFIED COLLECTION SERVICES, INC., for the following:

15. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15

U.S.C. 1692k,

16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,

15 U.S.C. 1692k

17. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, TRAVIS MCELVAIN, demands a jury trial in this cause of action.

RESPECTFULLY SUBMITTED,

DATED: March 30, 2011

By: /s/ JD Hass, Esq.
Local Counsel: JD Haas, Esq.
jdhaas@jdhaas.com

Krohn & Moss, Ltd.
10474 Santa Monica Blvd., Suite 401
Los Angeles, CA 90025
Attorney for Plaintiff

1 **VERIFICATION OF COMPLAINT AND CERTIFICATION**

2 STATE OF IOWA

3 Plaintiff, TRAVIS McELVAIN, states as follows:

- 4 1. I am the Plaintiff in this civil proceeding.
- 5 2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe
- 6 3. I believe that this civil Complaint is well grounded in fact and warranted by existing
- 7 law or by a good faith argument for the extension, modification or reversal of existing
- 8 4. I believe that this civil Complaint is not interposed for any improper purpose, such as
- 9 to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
- 10 needless increase in the cost of litigation to any Defendant(s), named in the
- 11 Complaint.
- 12 5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
- 13 6. Each and every exhibit I have provided to my attorneys which has been attached to
- 14 this Complaint is a true and correct copy of the original.
- 15 7. Except for clearly indicated redactions made by my attorneys where appropriate, I
- 16 have not altered, changed, modified or fabricated these exhibits, except that some of
- 17 the attached exhibits may contain some of my own handwritten notations.

18 Pursuant to 28 U.S.C. § 1746(2), I, TRAVIS McELVAIN, hereby declare (or certify,

19 verify or state) under penalty of perjury that the foregoing is true and correct.

20 DATE: 8-25-10

21 
22 TRAVIS McELVAIN